<u>REMARKS</u>

Claims 1-10 were examined. All claims were rejected. In response to the above-identified Office Action, Applicants amend claim 6, but do not cancel any claims or add any new claims. Reconsideration of the rejected claims in light of the aforementioned amendment and the following remarks is requested.

I. Claims Rejected Under 35 U.S.C. § 112, Second Paragraph

The Examiner rejected claim 6 under 35 U.S.C. § 112, second paragraph, as indefinite for failing to particularly point out and distinctly claim material which Applicants regard as their invention. Applicants restate this claim to clarify that the modeler configures itself to optimize for speed, rather than for any of the other parameters for which optimization is possible. Support for this amendment is at ¶ 0069. Withdrawal of this rejection is respectfully requested.

II. Claims Rejected Under 35 U.S.C. § 102(e)

The Examiner rejected claims 1-10 under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,601,233 issued to Underwood (*"Underwood"*). Applicants thank the Examiner for the careful review of this lengthy reference and the citation of specific portions that allegedly anticipate Applicants' claims. However, for the reasons discussed below, Applicants believe that the Examiner has failed to establish a *prima facie* case of anticipation.

Claim 1 recites a device for making automated transaction decisions, comprising a number of elements. The first element, a memory to store a series of historical records and results, where each record contains a set of data values for a corresponding set of variables, is alleged to be taught or suggested by *Underwood* at col. 312, ll. 66-67, col. 313, ll. 1-9, and col. 314, ll. 19-29. Applicants have carefully reviewed the cited portions, but were unable to locate the claimed memory. Instead, the first portion (col. 312, l. 66 through col. 314, l. 9) presents an analogy to explain how the designer of a PC workstation might think. A memory is mentioned, but the contents of the memory are not discussed. The second cited section, col. 314, ll. 19-29, appears to be unrelated to the first section, and also fails to teach or suggest at least a series of historical records and

results, where each record contains a set of data values for a corresponding set of variables.

The second element of claim 1, a transaction input unit to convey corresponding data values of a transaction for which a decision is to be made, is said to be found at col. 22, ll. 24-42, and col. 22, l. 60 through col. 23, l. 8. Again, Applicants have been unable to determine how the cited material, which "details the ReTA [Resources eCommerce Technology Architecture] approach to performing 'logical unit of work' database operations," is like the claimed transaction input unit. Instead, the indicated portion of the reference seems to describe how a software developer would design business components.

Similar problems affect the Examiner's analysis of the remaining elements of claim 1. For example, instead of the claimed decision output unit to convey a recommended decision, the Examiner has cited a portion of *Underwood*'s Summary that mentions neither decision nor output.

In the Examiner's Note following the discussion of claim 1, *Underwood*'s exhaustive teaching of business components framework and, inexplicably, its full use of object oriented programming (OOP) are mentioned. Nevertheless, Applicants respectfully submit that an anticipation rejection cannot be supported by general and disparate citations to a reference on the apparent theory that the claimed material must be in there *somewhere*, given an assumption of the comprehensive nature of the reference. Instead, the Patent Office has the initial burden to establish anticipation by showing that a single prior art reference discloses every element of the claim (*In re King*, 801 F.2d 1324, D.C. Cir. 1986), including designating as nearly as possible the parts of the reference relied upon and explaining the reference's pertinence if it is not apparent (37 C.F.R. 1.104(c)(2)). This is particularly important where, as here, the reference is 328 columns long.

For at least the foregoing reasons, Applicants request that the Examiner withdraw this rejection of claim 1.

Claims 2-6 depend directly or indirectly upon claim 1, and are patentable for at least the reasons discussed in support of that base claim. The Examiner is requested to withdraw the rejections of these claims as well.

Claim 7 recites a method for analyzing and representing data in a computer system comprising a number of operations. The Examiner addresses each operation in

turn, but as with the analysis of the elements of claim 1, the cited portions of *Underwood* have absolutely no apparent relationship to the claimed operation. For example, the first element of claim 7 requires determining statistical probabilities of each combination of data values. This is said to be anticipated by the following portion of *Underwood*:

> **Problem Management**
> Problem Management tools help track each system investigation request – from detection and portion *[sic]* of the present description to resolution (for example, Problem Tracking, Impact Analysis, Statistical Analysis). Several problem management software packages are available from a variety of vendors.

Applicants are unable to determine the relationship between the availability of software packages to perform problem management and the specific operation of determining statistical probabilities of each combination of data values. Even assuming, solely for the sake of argument, that one of those commercially-available packages could be used to perform the claimed operation, the reference fails to teach or suggest that the software should be used in that way.

Similarly, each of the other elements are said to be anticipated by a portion of *Underwood* that bears no apparent relationship to the element. Indeed, the final element, generating a decision output, is said to be taught or suggested by *Underwood* at col. 2, ll. 5-51, a section that includes the summary of the invention and the brief descriptions of the first three figures (and half of the description of the fourth figure).

Applicants respectfully submit that the cited portions of the reference of record fall far short of establishing a *prima facie* case of anticipation, and ask that the Examiner withdraw the rejection of claim 7.

Claims 8-10 depend upon claim 7, and are patentable for at least the reasons discussed in support of that claim. The Examiner is requested to withdraw these rejections also.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending, namely claims 1-10, patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207-3800.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, LLP

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Thomas M. Coester, Reg. No. 39,637

	CERTIFICATE OF MAILING
12400 Wilshire Boulevard Seventh Floor Los Angeles, California 90025 (310) 207-3800	I hereby certify that the correspondence is being deposited with the United States Postal Service, with sufficient postage, as first class mail in an envelope addressed to: Mail Stop Amendment Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450 Marilyn Bass July 25 , 2005